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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,312	09/24/2003	Kenneth Rambo	020366-091900US	8021
20350 7590 04/03/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER LUONG, ALAN H	
			ART UNIT 2623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/671,312

**Applicant(s)**

RAMBO, KENNETH

**Examiner**

ALAN LUONG

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,7,9,10,12-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7,9,10,12-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The art unit is changed into 2623.

### ***Response to Amendment***

This Office Action is responsive to the Amendment filed on Jan. 25, 2008.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 4, 7, 13-14 and 17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Bruck et al (US Patent No. 7,143,428; hereinafter US'428).

**Regarding to claim 1:** Bruck teaches a communications network having multiple users using an instant messaging (IM) application (see US'428, col. 10 lines 27-30), comprising:

a display device for each of the users (Bruck teaches a communications network having a user (10) each having a display device (14)( see US'428, Fig. 1 and 4; col. 3 lines 34-43 and col. 6 lines 21-35); [and]

plural display windows (as "chat region" 108 and TV region 118 of Fig.6; see

**US'428, col. 7 lines 26-58)** at the display device (84 of Fig.3, **col.6 lines 4-16**), the plural windows for simultaneously displaying multiple content, wherein a first display window displays a broadcast television program and wherein a second display window displays content from [an] the instant messaging (IM) application(see **US'428, Fig. 6 to Fig.8, col. 7 lines 26-58)** and

a server storing instant messaging content (Bruck teaches the communications network includes a server (a host server 98 of Fig. 4)(see **US'428, Fig. 4, col. 6 lines 21-41)** storing instant messaging content for display at each display device (**US'428, col. 6 line 42 to col. 7 line 9**) from each of the users the instant messaging content including a program ID (a TV program ID 126 of Fig. 6; see **US'428, col.7 lines 51-52, col.7 line 53 to col. 8 line 2**) identifying the broadcast television program being viewed by each user (**US'428, col. 9 lines 45-57**).

aggregating instant messaging content from the users (The server software maintains a table of the various participants in the chat room and echoes all messages from any of the participants to all of the participants)so that video programming activity by multiple users can be tracked on a real time basis at the server (the chat server is able to adequately serve chat rooms for all shows currently being broadcast.) in order to reflect moment-by-moment the level of instant messaging activity corresponding to television programs being viewed by the multiple users (see **US'428, col. 10 lines 27-67**).

**Regarding to claim 3:** Bruck also discloses the video programming content (**link 20 of Fig. 1**) is a broadcast television program (**Abstract lines 1-2**) and the broadcast television program is provided over one of a plurality of selectable television channels, and wherein the display device is a television screen. (**US'428, col. 3 lines 46-49**).

**Regarding to claim 4:** Bruck further discloses the display system of claim 1, wherein the instant messaging content comprises:

a personal ID associated with a user of the IM application (**US'428, col.10 lines 19-26**).

**Regarding to claim 7:** As claim 1 above, Bruck also discloses the instant messaging content further comprises a message sent from the remote user to a user at the display system. (**US'428, col.7 lines 28-42**).

**Regarding to claim 13, 14:** Bruck discloses the display system of claim 1, wherein the programming content is provided to the display system by a satellite (**US'428, col. 3 lines 60-63**) and a cable television service. (**US'428, col. 4 lines 33-39**) **15-16. (Canceled)**

**Regarding to claim 17:** Bruck further teaches a set top box for each of the users (set-top box 12 of Fig. 1) for receiving the broadcast television program (**see US'428, Fig. 1, col. 3 lines 43-56**) Bruck also teaches the program ID identifying the television program (**US'428, col.7 lines 51-52**), a program ID 126 of Fig. 6, **col.7 lines 59-65**), wherein the IM application captures the program ID at the set top box (**US'428, Fig. 14, col.10 lines 4-26**) so that the program ID identifying the broadcast television program

being viewed by each user changes when the television program being viewed by that user changes (US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32).

**Regarding to claim 18:** Bruck also teaches the display device further includes a set up screen used by each of the users to set up an instant messaging session (US'428, Fig. 11, col. 8 lines 36-43), and wherein the program ID is entered by the user at the set up screen (US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-10, 12 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck; in view of US patent No.6,757,365 (US'365) to Bogard.

**Regarding to claims 9, 10:** Bruck teaches the display system of claim 1, wherein the instant messaging content are implemented using a communications channel established by an IM server over Internet Provider, but fails to teach the telephone communications line is connected at a telephone device separate from the display system over the communications network between the user at the display system and the remote user, when the telephone communications display element uses the public switched telephone network (PSTN).

Bogard teaches an instant messaging via telephone interfaces to communicate between users (telephone) and IM server (300 and 308 of Fig. 3) by the public switched telephone network (PSTN) or Voice over Internet Protocol (VoIP) (**US'365, col.5 lines 42-54**). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify multiple users system of Bruck with the telephone communications line using the Public Switched Telephone Network (PSTN) as taught by Bogard; in order to establish a complete Instant message service including the voice portal and chat web service.

**Regarding to claim 12.** Bruck teaches the display system of claim 1, wherein a user at the display system is a subscriber to a ISDN service, but fails to disclose a VDSL service provides telephone, video programming and internet access service to the subscriber over the communications network (**US'365, col.5 lines 55-67**).

Bogard teaches a DSL service, a cable modem etc... provide a telephone, video programming and internet access service to the subscriber over the communications network (col.5 lines 55-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify multiple users IM system of Bruck with the DSL service on a telephone communication network as taught by Bogard; in order to modernize the communication link between STB and the Internet Provider.

**Regarding to claim 19:** Bruck teaches the display device further includes a set up screen used by each of the users to set up an instant messaging session (**US'428, Fig. 11, col. 8 lines 36-43**), and wherein the program ID is entered by the user at the

set up screen (**US'428, Figs. 12, 13, col. 8 line 44-col. 9 line 32**) but fails to teach personal profile information of the user is entered at a profile screen, so that the programming activity being tracked can be associated with demographic information of users collected from the personal profile data.

Bogard; in the same Instant messaging field, teaches a user profile information is entered at a profile screen (**see US'365, col. 3 line 39-col. 4 line 13**), so that the programming activity being tracked can be associated with demographic information of users collected from the personal profile data (**see US'365, col. 4 lines 47-56**). It would have been obvious to one of ordinary skill in the art at the time of invention was made to modify a user profile information is associated with demographic information of as taught by Bogard; with multiple users IM system of Bruck; in order to establish a complete Instant message service including the voice portal and chat web service.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck; further in view of Wong et al. (US patent No.6,968,364 ; hereinafter US'364) and Kung et al. (US patent No.6,889,321 ; hereinafter US'321) .

**Regarding to claim 20:** (New) Bruck teaches a communications network having a multiple users each having a display device using an instant messaging (IM) application as in claim 1 above; wherein each user is a subscriber to video programming for display at the display system.

However, Bruck fails to teach wherein such user is assigned one or more security keys in order to receive the video programming over the communications network, wherein such user may send an attachment in an IM message to another remote user, the



attachment comprising a video data file representing the video programming, and a security key associated with the video programming, and wherein video programming represented by the video data file is displayed to the remote user only if the remote user has a security key matching the security key associated with the video programming.

Wong, the same endeavor, teaches such user may send an attachment in an IM message to another remote user, the attachment comprising a video data file representing the video programming, (Each client system 40 may have one or more email addresses associated therewith. As a result, a remote device, such as the remote computer 30, having email capabilities may, in turn, communicate with any of the client systems 40 via email in a conventional manner; A component or subsystem (e.g., a digital audio/video recording system) of the client system 40a also may be provided with its own email address (or addresses) for receiving program instructions or other pertinent control information via email, such as in the form of an attachment or an object embedded in the email; see **US'364, col.11 lines 4-16**) (the token authorization module may accept the token. Once accepted, a token is utilized to program the DVR 240 for recording the selected audio and/or visual program(s) when broadcast; see **US'364, col.15 lines 32-50**). (The token encoder 340 is operative to encode program data in the form of a token, such as may be associated with (e.g., attached to) an outgoing email

message based one or more selections of the user. The token is then attached to an email message, such as with the remote control 120 (FIG. 2). It is to be appreciated that each token may include program information associated with a single program or, alternatively; see **US'364, col.16 lines 21-38) (also see col.16 lines 50-61, Fig. 5 col. 19, lines 7-21, Fig. 6, col. 19 lines 44-56 and col. 20 lines 17-20).** Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the IM system of Bruck with an attachment in an IM message as a token as taught by Wong; in order to allow user may employ the local computer to select one or more programs where is programmed to connect to the server system for searching and/or filtering through the program information of the database; and have a token assigned to one or more recipients (who also may include the user) representing program criteria for each selected program.

However, Neither Bruck nor Wong teaches a security key associated with the video programming, and wherein video programming represented by the video data file is displayed to the remote user only if the remote user has a security key matching the security key associated with the video programming.

Kung, in the field of messaging; teaches each user (having Set top box) is assigned one or more security keys (providing an initial security key and updated security keys to the various pieces of communication equipment

located throughout the broadband communication system, for example a customer premises gateway (e.g., a broadband residential gateway (BRG)) or a gateway for inter-linking with another communication network (e.g. voice gateway (VG)); **see US'321, col. 2 lines 1-7)** (The initial security key as an encryption key may be used to establish a secure communication between two or more communication entities. Such entities might involve an originating point communication equipment (OPCE) and a terminating point communication equipment (TPCE), for example, the BRG (OPCE) and the Call Manager (TPCE), the BRG (OPCE), BRG1, and another Broadband Residential Gateway as Set top box (TPCE), BRG2, or the BRG and a gateway for interfacing with another communication system (e.g. VG); **col. 2 lines 17-24)** in order to receive the video programming over the communications network (provides for protected communications in a powerful, facilities-based, broadband communications system that guarantees voice, data and video communication reliability and security to users for an multimedia system including integrated telephone, television and data network; **see US'321, col. 1 lines 59-64),**

a security key associated with the video programming (a user first activates a secure communication feature before or during a communication session, the origination point communication equipment (e.g.,

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BRG1 or Set top box 102 (1)) may send the terminating point communication equipment (e.g., BRG2 or Set top box 102 (N))) a packet that includes a private key which may be the BRG's initial encryption key; **see US'321, col. 2 lines 25-30)** The secured encrypted packets may be part of one or more legs in, for example, a conference call, a teleconference, or a multimedia session; **see US'321, col. 2 lines 43-45)**

and wherein video programming represented by the video data file is displayed to the remote user only if the remote user has a security key matching the security key associated with the video programming (Subsequently the two pieces of communication equipment will encrypt and decrypt communication packets to one another using the private key. A private key as used in the context of the present invention may be confidential to a user and the system or may be a private key as in the context of known private key/public key encryption systems known in the art; **see US'321, col. 2 lines 30-36)**; (the secure call feature may be used to secure one type of media using encryption while not securing other types of media in a multimedia communication session. A user may enter a secure session feature code which encrypts the data (or text) portion of a multimedia session while the voice portion is not encrypted. Thus, a user may send certain documents securely to one party while they are talking

with the party and/or other parties at the same time.

Alternatively, different media types, for example audio, text, and multimedia audio and video, may be secured at different levels of security using for example different encryption types or algorithms (e.g., DES, PGP, RSA, etc.) **see US'321, col. 3 lines 30-36); (also further see col. 31 line 56 to col. 36 line 50).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify instant message application of Bruck and Wong with assigned one or more security keys as taught by Kung; in order to protect the video programming content and text chat messages from a hacker or an unauthorized viewer and only a remote user has a security key matching the security key associated with to receive the video programming content.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-4, 7, 9-10, 12-14 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/A. L./

Examiner, Art Unit 2623

Date 03/17/2008

/Scott Beliveau/

Supervisory Patent Examiner, Art Unit 2623